

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 4. Motion and Affidavit for Permission to Proceed in Forma Pauperis

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form04instructions.pdf>

9th Cir. Case Number(s)

23-15501

Case Name

Tynisha Davis vs. Consumer Safety Technology

Affidavit in support of motion: I swear under penalty of perjury that I am financially unable to pay the docket and filing fees for my appeal. I believe my appeal has merit. I swear under penalty of perjury under United States laws that my answers on this form are true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Signature



Date

6/19/23

The court may grant a motion to proceed in forma pauperis if you show that you cannot pay the filing fees **and** you have a non-frivolous legal issue on appeal.
Please state your issues on appeal. (attach additional pages if necessary)

Please see attachment

My motion to Appeal was sent to you
on 3/31/23 by certified mail

3/31/23

MOTION TO APPEAL

To Whom It May Concern,

I'm writing this motion to appeal the decision made on 3/30/23 to dismiss my case due to it being one day late from the 90 days given for the right to sue. I received information that this was being done with prejudice and I don't agree with the decision the judge made. I'm appealing this decision because I feel that I should be given a chance to allow the court to hear my case which has a lot of merit in it. The EEOC dismissed my case without notifying me via email, mail or phone and I would like to file a motion to see what can be done about that as well. It was almost a whole entire year before I found out they dropped my case and received the right to sue letter. At this time, I was still recovering from an emergency surgery I had a few months prior to that so it did take me some time to try and get everything done being that I filed this pro se pro per, plus I'm still dealing with the illness of voice dysphonia. I'm asking for the Mercy of the court to change the decision made of it being dismissed so I can receive justice.

Thank you kindly,

Ms. Tyrisha Davis



1. For both you and your spouse, estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income Source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>176⁰⁰</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Self-Employment	\$ <u>125⁰⁰</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Interest and Dividends	\$ <u>0</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Gifts	\$ <u>180</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Alimony	\$ <u>0</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Child Support	\$ <u>60</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Unemployment Payments	\$ <u>0</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Public-Assistance (such as welfare)	\$ <u>285</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
Other (specify) <input type="text"/>	\$ <u>0</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
TOTAL MONTHLY INCOME:	\$ <u>474⁰⁰</u>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

2. List your employment history for the past two years, most recent employer first.

(Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
Diamond Services of Coastal Georgia	22 Rice Creek Rd Port Wentworth, GA 31407	From 4/17/23 To Now	\$ 176.00
		From _____ To _____	\$ _____
		From _____ To _____	\$ _____
		From _____ To _____	\$ _____

3. List your spouse's employment history for the past two years, most recent employer first.

(Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
		From _____ To _____	\$ _____
		From _____ To _____	\$ _____
		From _____ To _____	\$ _____
		From _____ To _____	\$ _____

4. How much cash do you and your spouse have? \$ 150

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount You Have	Amount Your Spouse Has
Cash app	Checking	\$ 150	\$
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishing.

Home	Value	Other Real Estate	Value
NA	\$		\$

Motor Vehicle 1: Make & Year	Model	Registration #	Value
NA			\$
Motor Vehicle 2: Make & Year	Model	Registration #	Value
NA			\$

Other Assets	Value
NA	\$ []
	\$ []
	\$ []

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse	Amount owed to you	Amount owed to your spouse
United Health Care Insurance Short term Disability	\$ 11,000 - 15,000	\$ []
	\$ []	\$ []
	\$ []	\$ []

7. State the persons who rely on you or your spouse for support. If a dependent is a minor, list only the initials and not the full name.

Name	Relationship	Age
ED	Son	15
JC	Son	13

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <input type="text"/>	\$ <input type="text"/>
- Are real estate taxes included? <input type="radio"/> Yes <input checked="" type="radio"/> No		
- Is property insurance included? <input type="radio"/> Yes <input checked="" type="radio"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <input type="text" value="190"/>	\$ <input type="text"/>
Home maintenance (repairs and upkeep)	\$ <input type="text" value="0"/>	\$ <input type="text"/>
Food	\$ <input type="text" value="400"/>	\$ <input type="text"/>
Clothing	\$ <input type="text" value="100-200"/>	\$ <input type="text"/>
Laundry and dry-cleaning	\$ <input type="text" value="0"/>	\$ <input type="text"/>
Medical and dental expenses	\$ <input type="text" value="0"/>	\$ <input type="text"/>
Transportation (not including motor vehicle payments)	\$ <input type="text" value="200"/>	\$ <input type="text"/>
Recreation, entertainment, newspapers, magazines, etc.	\$ <input type="text" value="25"/>	\$ <input type="text"/>
Insurance (not deducted from wages or included in mortgage payments)		
- Homeowner's or renter's	\$ <input type="text" value="30.14"/>	\$ <input type="text"/>
- Life	\$ <input type="text" value="0"/>	\$ <input type="text"/>
- Health	\$ <input type="text" value="0"/>	\$ <input type="text"/>
- Motor Vehicle	\$ <input type="text" value="0"/>	\$ <input type="text"/>
- Other <input type="text"/>	\$ <input type="text" value="0"/>	\$ <input type="text"/>
Taxes (not deducted from wages or included in mortgage payments)		
Specify <input type="text"/>	\$ <input type="text" value="0"/>	\$ <input type="text"/>

	You	Spouse
Installment payments		
- Motor Vehicle	\$ <input type="text" value="0"/>	\$ <input type="text"/>
- Credit Card (name) <input type="text"/>	\$ <input type="text" value="0"/>	\$ <input type="text"/>
- Department Store (name) <input type="text" value="NA"/>	\$ <input type="text" value="0"/>	\$ <input type="text"/>
Alimony, maintenance, and support paid to others	\$ <input type="text" value="0"/>	\$ <input type="text"/>
Regular expenses for the operation of business, profession, or farm (attach detailed statement)	\$ <input type="text" value="0"/>	\$ <input type="text"/>
Other (specify) <input type="text"/>	\$ <input type="text" value="0"/>	\$ <input type="text"/>
TOTAL MONTHLY EXPENSES	\$ <input type="text" value="0"/>	\$ <input type="text"/>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months? Yes No

If Yes, describe on an attached sheet.

10. Have you spent—or will you be spending—any money for expenses or attorney fees in connection with this lawsuit? Yes No

If Yes, how much? \$

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

I am Indigent

12. State the city and state of your legal residence.

City

Savannah

State

Georgia

Your daytime phone number (ex., 415-355-8000)

(404) 537-9464

Your age

36

Your years of schooling

Some College / 2 years

FILED

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MAY 22 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

TYRISHA L. DAVIS,

Plaintiff-Appellant,

v.

CONSUMER SAFETY
TECHNOLOGY/INTOXALOCK,

Defendant-Appellee.

No. 23-15501

D.C. No. 2:22-cv-02118-MTL
District of Arizona,
Phoenix

ORDER

A review of the district court's docket reflects that the district court has certified that this appeal is not taken in good faith and has revoked appellant's in forma pauperis status. *See* 28 U.S.C. § 1915(a). This court may dismiss a case at any time, if the court determines the case is frivolous. *See* 28 U.S.C. § 1915(e)(2).

Within 35 days after the date of this order, appellant must:

- (1) file a motion to dismiss this appeal, *see* Fed. R. App. P. 42(b), or
- (2) file a statement explaining why the appeal is not frivolous and should go forward.

If appellant files a statement that the appeal should go forward, appellant also must:

- (1) file in this court a motion to proceed in forma pauperis, OR

(2) pay to the district court \$505.00 for the filing and docketing fees for this appeal AND file in this court proof that the \$505.00 was paid.

If appellant does not respond to this order, the Clerk will dismiss this appeal for failure to prosecute, without further notice. *See* 9th Cir. R. 42-1. If appellant files a motion to dismiss the appeal, the Clerk will dismiss this appeal, pursuant to Federal Rule of Appellate Procedure 42(b). If appellant submits any response to this order other than a motion to dismiss the appeal, the court may dismiss this appeal as frivolous, without further notice.

If appellant files a statement that the appeal should go forward, appellee may file a response within 10 days after service of appellant's statement.

The briefing schedule for this appeal is stayed.

The Clerk shall serve on appellant: (1) a form motion to voluntarily dismiss the appeal, (2) a form statement that the appeal should go forward, and (3) a Form 4 financial affidavit. Appellant may use the enclosed forms for any motion to dismiss the appeal, statement that the appeal should go forward, and/or motion to proceed in forma pauperis.

FOR THE COURT

MOLLY C. DWYER
CLERK OF COURT

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Tyrisha Davis
Appellant(s),

9th Cir. Case No. 23-15501

v.

Consumer Safety Technology
Appellee(s).

STATEMENT THAT APPEAL SHOULD GO FORWARD

(attach additional sheets as necessary)

1. Date(s) of entry of judgment or order(s) you are challenging in this appeal:

3/30/23

2. What claims did you raise to the court below?

Discrimination, Wrongful termination, and Retaliation

3. What do you think the court below did wrong? (You may, but need not, refer to cases and statutes.)

I believe the Court did not take consideration of the EEOC agency dropping the ball on my claim, which automatically put me in a untimely disposition because I was still recovering from an emergency surgery I had.

4. Why are these errors serious enough that this appeal should go forward?

I was never given the appropriate time from the beginning with the EEOC agency because they never notified me via email, mail, or by phone they dropped my case.

5. Additional Information: I was under the impression for a little over a year that the attorney's had my case. I do have proof from my emails.

Dated: 6/19/23

Tyrisha Davis

Print Name(s)

TD

Signature(s)

Appellant(s) in Pro Se